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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,972	07/15/2003	Robert A. Matousek	12622	7832

26637 7590 04/28/2005

CNH AMERICA LLC
INTELLECTUAL PROPERTY LAW DEPARTMENT
700 STATE STREET
RACINE, WI 53404

EXAMINER

TORRES, ALICIA M

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 04/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/619,972

Applicant(s)

MATOUSEK ET AL.

Examiner

Alicia M Torres

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Matousek et al., hereafter Matousek.

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention “by another,” or by an appropriate showing under 37 CFR 1.131.

Regarding claims 1-16, Matousek discloses a harvesting combine comprising:

A body (14) including a housing (16) extending longitudinally along, and relative to, a forward direction of travel of the harvesting combine (10), the housing (16) having a front wall (29) extending generally transverse to the longitudinally extending body (14) and a rotary threshing assembly including a rotor (22) having a front end (23) located in front of the front wall (29);

A longitudinally extending cab (12) in front of and spaced-apart from the front wall (29), the longitudinally extending cab (12) having at least one longitudinally extending side (26); and

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A platform (40) comprising a rear platform portion (46), the rear platform portion (46) positioned in the space between the cab (12) and the body (14), the rear platform portion (46) extending along the front wall (29), which is generally transverse to the longitudinally extending body (14), wherein the cab (12), the body (14) and the rear platform portion (46) define a passageway to allow an operator to visually monitor and access the body (14) from the platform (40), the passageway and the rear platform portion (46) extending over the front end (23) of the rotor (22), the platform (40) further including at least one side platform portion (42) connected to the rear platform portion (46), the at least one side platform portion (42) located beside, and extending along, the at least one longitudinally extending side (26) of the cab (12), wherein the rear platform portion (46) and the at least one side platform portion (46) comprise at least one generally L-shape embodiment when viewed from the above (see Figure 6), as per claim 1; and

wherein the cab (12) is supported on the combine (10) by a linkage assembly (82) movable for moving the cab (12) upwardly and rearwardly into the space and adjacent to the front wall (29), as per claim 2; and

wherein the rear platform portion (46) is removable to allow the cab (12) to be positioned in the passageway above the front end (23) of the rotor (22, see Figure 9), as per claim 3; and

wherein the rear platform portion (46) between the cab (12) and the body (14) is located at a higher elevation than the at least one side platform portion (42), as per claim 4; and

wherein the passageway has a width of approximately 18-20 inches (see column 4, lines 28-32), as per claim 5; and

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wherein the rear platform portion (46) is supported on a bridge (54) which has a generally inverted U-shape which extends over and defines a space containing the front end (23) of the rotor (22), as per claim 6; and

wherein the bridge (54) supports at least one step (48) at an elevation between the rear platform portion (46) and the at least one side platform portion (42), as per claim 7; and

comprising two (42, 44) of the at least one side platform portions beside opposite longitudinally extending sides of the cab (12), respectively, the side platform portions (42, 44) and the rear platform portion (46) together having a U-shape when viewed from above, as per claim 8; and

wherein the cab (12) includes a back wall (36), the back wall (36) including a transparent window (38) to provide the operator with enhanced visibility behind the cab (12), as per claim 9; and

wherein the passageway has a width of approximately 18-20 inches (see column 4, lines 24-28), as per claim 5; and

wherein the platform (40) includes a railing (43) extending upward from the platform (40) and along an outer perimeter of the platform (40), as per claim 10; and

wherein the combine (10) includes a frame (55) the platform (40) being attached to the frame (55), as per claim 11; and

wherein the platform (40) is positioned above two front wheels (60, 62) of the combine (10), as per claim 12; and

wherein the cab (12) includes a curved transparent front panel (34), as per claim 13; and

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wherein the curved transparent front panel (34) is comprised of glass, as per claim 14;
and

wherein the body (14) includes a housing (16) and operating equipment (18, 20, 22), as per claim 15; and

wherein the operating equipment (18, 20, 22) includes a loop elevator assembly (18) and a grain tank (20), as per claim 16.

Regarding claim 17, Matousek discloses a device wherein the following method for visually monitoring a harvesting combine is inherent, the method comprising:

Providing a harvesting combine (10) including a longitudinally extending body (14), relative to a forward direction of travel of the harvesting combine (10), the body (14) including a housing (16) and operating equipment (18, 20, 22) including at least a grain tank (20), a longitudinally extending cab (12) spaced-apart from and in front of the body (14), the longitudinally extending cab (12) having at least one longitudinally extending side (26), a platform (40) including at least one side platform portion (42) positioned beside the cab (12) and extending along the at least one longitudinally extending side (26) of the cab (12), and an elevated back platform portion (46) connected to the at least one side platform portion (42) and positioned between the cab (12) and the body (14) at an elevation higher than the side platform portion (42), wherein the cab (12), the body (14), and the elevated back platform portion (46) define a passageway; and

Visually monitoring the operating equipment (18, 20, 22) from the elevated back platform portion (46).

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Regarding claims 18-20, Matousek discloses a device wherein the following method for visually monitoring a harvesting combine is inherent, the method comprising:

Providing a harvesting combine (10) including a longitudinally extending body (14), relative to a forward direction of travel of the harvesting combine (10), the body (14) including a housing (16) and operating equipment (18, 20, 22) including a grain tank (20), a longitudinally extending cab (12) spaced-apart from and forwardly of the body (14), the longitudinally extending cab (12) having at least one longitudinally extending side (26), a platform (40) including at least one side platform portion (42) positioned beside the cab (12) and extending along the at least one longitudinally extending side (26) of the cab (12), and an elevated back platform portion (46) connected to the at least one side platform portion (42) and positioned between the cab (12) and the body (14) wherein the cab (12), the body (14), and the elevated back platform portion (46) define a passageway; and

Accessing the operating equipment (18, 20, 22) from the elevated back platform portion (46), as per claim 18; and

Wherein the cab (12) includes a back wall (36), the back wall including a transparent window (38); and

Visually monitoring the operating equipment (18, 20, 22) from the cab (12), as per claim 19; and

Wherein the transparent window (38) is comprised of glass, as per claim 20.

Regarding claim 21, Matousek discloses a cab arrangement for a harvesting combine comprising:

A harvesting combine (10) including a longitudinally extending body (14), relative to a forward direction of travel of the harvesting combine (10), having a grain tank (20);

A longitudinally extending cab (12) spaced-apart from the grain tank (20), the longitudinally extending cab (12) having opposite longitudinally extending sides (26, 28); and

A platform (40) including side platform portions (42, 44) beside the opposite sides of the cab (12) and extending longitudinally therealong, the platform (40) further including a back platform portion (46) connected to at least one of the side platform portions (42, 44) and positioned at a higher elevation than the side platform portions (42, 44) positioned between the cab (12) and the grain tank (20), wherein the back platform portion (46) defines a space therebeneath containing a front end (23) of a rotor (22) of a threshing system of the combine (10) extending forwardly of the body (14) of the combine (14), and wherein the cab (12), the grain tank (20), and the back platform portion (46) define a passageway to allow an operator to visually monitor operating equipment (18, 20, 22) from the higher elevation.

Response to Arguments

Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

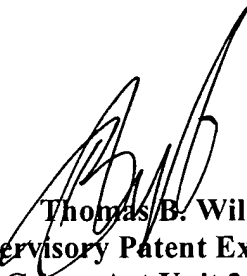
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 571-272-6997. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 571-272-6998.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 703-872-9306.



Thomas B. Will
Supervisory Patent Examiner
Group Art Unit 3671

AMT
April 25, 2005